



July 26, 2016

**BY ELECTRONIC FILING**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: Protecting the Privacy of Customers of Broadband and Other Telecommunications Services,  
*WC Docket No. 16-106*

Dear Ms. Dortch:

On July 25, 2016, Hughes Network Systems, LLC (“Hughes”) met with Matthew DelNero, Chief, Wireline Competition; Lisa Hone, Associate Chief, Wireline Competition Bureau; and Melissa Kinkel, Heather Hendrickson, Sherwin Siy, David Brody and Brian Hurley from the Wireline Competition Bureau/Competition Policy Division. Hughes was represented by Philip O’Brien, Vice President, Legal, Jennifer A. Manner, Senior Vice President, Regulatory Affairs and Shruti Kawle, Intern, Regulatory Affairs. In the meeting, Hughes’s discussed the points in the attached document.

This letter is submitted consistent with the Commission’s ex parte rules.<sup>1</sup> Please direct any questions concerning this filing to the undersigned.

Sincerely,

/s/

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Jennifer Manner  
Senior Vice President, Regulatory  
Affairs Hughes Network Systems, LLC  
11717 Exploration Lane  
Germantown, MD 20876  
301-428-5893

cc: Matthew DelNero  
Lisa Hone

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<sup>1</sup> 47 C.F.R. § 1.1206(b)(2).

Melissa Kinkel  
Heather Hendrickson  
Sherwin Siy  
David Brody  
Brian Hurley

**Flexible Compliance Mechanisms, including Safe Harbors, Will Increase  
Consumer Confidence in the Privacy of Personal Information**  
July 25, 2016

*Clear Privacy Notices and Voluntary Safe Harbors Will Enhance Consumers' Broadband Privacy*

- Hughes supports the FCC's proposal to provide a "nutrition label" template as a voluntary compliance safe harbor, which will benefit consumers by increasing the homogeneity of privacy disclosures and enhancing their ability to compare key aspects of providers' privacy policies.
- Rather than requiring "layered" privacy notices, which could give rise to consumer confusion, the FCC should require broadband providers to provide customers with a minimum level of information and allow providers to develop a clear disclosure format.

*Consumers Should Have Maximum Flexibility in Providing and Updating Consent*

- Broadband providers should be required to inform consumers of their privacy options when they sign up for service, and to update consumers' decisions regarding privacy preferences when they are affirmatively communicated to the provider.
- Rather than requiring customers to periodically refresh their privacy choices, service providers should be allowed to voluntarily provide a dashboard or web link that consumers can use to control their preferences.
- If the FCC requires the mandatory use of an online dashboard, it should provide a template similar to the nutrition label that would serve as a safe harbor.
- The FCC should allow broadband providers 10 business days to implement a consumer's request to opt-in or opt-out of permitted uses of their customer PI.

*Data Security Requirements Should be Straightforward and Not Redundant*

- Ten days is not sufficient time to allow broadband providers to assess a suspected breach and compile required reports. The FCC should stipulate that broadband providers must report a breach within 30 days (extendable for 30 days periods) from the discovery of that breach.

- To avoid confusion, the same 30 day renewable time frame should also apply to notices to the FCC and law enforcement agencies. This aligns with the FCC’s proposal with the Personal Data Notification and Protection Act of 2015 (“Act”), which proposes a national 30 day standard for data breach notification.
  - The Act also provides a safe harbor for businesses that have conducted a risk assessment and found no reasonable risk that a security breach has resulted in or will result in harm to individuals whose sensitive personal information was subject to the security breach and that notify the Federal Trade Commission the results of this assessment within 30 days. The FCC should adopt this proposed safe harbor.
- The FCC should adopt its proposal that each broadband provider should be able to design its own risk management program and should decline to adopt periodic technical audits such as penetration test.
- Preempting inconsistent state privacy laws will avoid diverting valuable resources away from resolving broadband privacy issues.

#### *Limiting Recordkeeping Requirements Will Expedite Retrievals and Avoid Legal Risk*

- The FCC should only require broadband providers to retain a record of any discovered breach and notification for six months. This approach would ensure that customers’ records are retained for a reasonable period following the termination of service, as well as provide the FCC and law enforcement agencies with sufficient access to records to conduct investigations of consumer complaints.
- Retaining customer records for longer than six months would increase the amount of customer PI that could potentially be subject to a data breach and would impose unnecessary administrative burdens, data storage and processing costs on broadband providers.

#### *Consumers Should Be Free to Enter into Arbitration Agreements*

- The FCC should permit broadband providers to continue to include clear and transparent arbitration clauses in customer privacy agreements. This provides benefits to consumers and service providers by expediting resolution of disputes and reducing costs.